

Following Changes to Privacy Bill Affecting CIA

- ★ Page 4 Defines "routine use" to allow agencies to disclose information to the public. The use must be compatible with the purpose for which it was collected.
- Page 6 Includes the Comptroller General in section (b)(8) which allows disclosure of information to the Congress without permission of individual involved.
- ★ Page 9 New (e)(2)  
Urges agencies to collect information directly from individual when individual's rights are affected.
- ★ Page 11 New subsection (e)(7)  
Precludes the maintenance of any records which describe how individuals exercise their first amendment rights unless authorized by statute. Sponsored by Senator Ervin as result of his hearings on Army's spying upon domestic political groups.
- ★ Page 11 New (e)(10)  
Agencies are to establish rules of conduct for operating systems pursuant to new law.
- ★ Page 11 New (e)(11)  
Agencies are to establish appropriate safeguards to protect information.
- ★ Page 21 New subsection (p)  
Makes it clear that no agency may rely on Sec. 552, Freedom of Information Act, to deny anyone access to his record if it is otherwise accessible under Privacy Act. (NOTE: Language is being changed)

S. 3418

Changes in Privacy bill which  
PLC and [REDACTED] OGC,  
took to OMB 12/16/74

25X1A

New Sections 5 through 9

These sections are general and apply to CIA.

Section 5  
pp. 29-38  
OMB  
draft

Establishes a two year "Privacy Protection Study Commission" composed of nine members--3 appointed by President; 3 by President of Senate; and 3 by Speaker; to be chosen from among members of public at large experts in civil rights, law, etc.

The Commission is to study data banks and data processing programs and information systems of Government and make recommendations to the President and Congress. It is also to determine what laws or other authority govern these systems and the extent that they are consistent with right of privacy and due process of law. Under Section (b) (3) (pg. 33 OMB draft) the Commission is to make a thorough study of the criteria of programs which govern the collection, dissemination and use of personal information.

The Commission may inspect such records as it deems necessary; may hold hearings and has subpoena powers with redress to the courts.

NOTE: We were exempt from the Privacy Board in S. 3418, the Senate bill; however, this was more regulatory. This proposal is a study commission which we would be hard pressed to be totally exempt from. They should have enough to concentrate on in the public service sector--i.e., HEW, IRS, etc. but we probably would be subject to their review to some extent. We could try for legislative history to make clear that the Director's responsibilities are not impaired.

Section 6  
pg. 27 OMB  
draft

Agencies must give prior notice to OMB and Congress if they intend to change any record systems which affect personal rights.

Section 7  
pg. 28 OMB  
draft

OMB is to provide guidelines.

Section 8

pg. 28 OMB  
draft |

The effective date of the law is 270 days after  
enactment.

Section 9

pg. 28 OMB  
draft

Authorizes appropriation of \$1,500,000 for fiscal  
years 1975 through 1977 with \$750,000 limitation for any  
one year.

For Inclusion in Conference Committee Report

The Congress recognized the sensitivity of records maintained by the Central Intelligence Agency and exempted CIA from most of the provisions of the Act. The Congress makes clear that any review of CIA record systems which may be conducted by the Study Commission shall not impair the responsibility of the Director of Central Intelligence to protect intelligence sources and methods pursuant to the National Security Act of 1947.

Approved For Release 2002/01/28 : CIA-RDP76M00527R000700150043-1  
Insert page 4 between lines 23 and 24  
new subsection (a)(7)

"(7) the term 'routine use' means, with respect to the disclosure of a record, the use of such record or information contained therein for a purpose which is compatible with the purpose for which it was collected."

Insert page 6 line 14 before semicolon

"or to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office."

Insert page 9 between lines 14 and 15  
new subsection (e)(2)

"(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;"

Strike out page 11 lines 11 through 18 and insert  
new subsection (e)(7)

"(7) maintain no record describing how individuals exercise rights guaranteed by the first amendment unless expressly authorized by statute or by the individual about whom the record is maintained or in cases where such activities are inextricably intertwined with the commission of a crime prohibited by Federal law;"

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Insert page 11 between lines 24 and 25  
new subsections (e)(10) and (e)(11)

"(10) establish rules of conduct and notify and instruct each person involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, of the requirements of this section, including any rules and procedures adopted pursuant to this section and the penalties for noncompliance; and"

"(11) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained."

Insert page 21 between lines 18 and 19  
new subsection (p)

"(p) Effect on Other Laws. --No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record or information contained therein which is otherwise accessible to such individual under the provisions of this section. Nothing in this section shall be deemed to require or permit the withholding of any record or any information contained therein which is permitted to be disclosed under section 552 of this title."

[NOTE: This language is being changed.]

Strike out page 16 lines 11 and 12 after "(b)" and  
insert

"(e)(2), (e)(4)(A) through (F), (e)(7), (e)(10), (e)(11), (i),  
and (p) if the system of records is--"

93<sup>d</sup> CONGRESS  
2<sup>d</sup> SESSION

# H. R. 16373

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 22, 1974

Received; read twice, considered, amended, read the third time, and passed

[Insert the part printed in italic]

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## AN ACT

To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records and to provide that individuals be granted access to records concerning them which are maintained by Federal agencies.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       ~~That this Act may be cited as the "Privacy Act of 1974".~~

4       ~~SEC. 2. (a) The Congress finds that—~~

5               ~~(1) the privacy of an individual is directly af-~~  
6       ~~ected by the collection, maintenance, use, and dissemi-~~  
7       ~~nation of personal information by Federal agencies;~~

8               ~~(2) the increasing use of computers and sophisti-~~  
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1       ~~"(1) the term 'agency' means agency as defined in~~  
2       ~~section 552 (e) of this title;~~

3       ~~"(2) the term 'individual' means a citizen of the~~  
4       ~~United States or an alien lawfully admitted for perma-~~  
5       ~~nent residence;~~

6       ~~"(3) the term 'maintain' includes maintain, collect,~~  
7       ~~use, or disseminate;~~

8       ~~"(4) the term 'record' means any collection or~~  
9       ~~grouping of information about an individual that is~~  
10       ~~maintained by an agency and that contains his name,~~  
11       ~~or the identifying number, symbol, or other identifying~~  
12       ~~particular assigned to the individual;~~

13       ~~"(5) the term 'system of records' means a group of~~  
14       ~~any records under the control of any agency from which~~  
15       ~~information is retrieved by the name of the individual or~~  
16       ~~by some identifying number, symbol, or other identifying~~  
17       ~~particular assigned to the individual; and~~

18       ~~"(6) the term 'statistical research or reporting~~  
19       ~~record' means a record in a system of records maintained~~  
20       ~~for statistical research or reporting purposes only and~~  
21       ~~not used in whole or in part in making any determination~~  
22       ~~about an identifiable individual, except as provided by~~  
23       ~~section 8 of title 13.~~

24       ~~"(7) New (See attached sheet)~~

24       ~~"(b) CONDITIONS OF DISCLOSURE. No agency shall~~

1 ~~by any means of communication to any person, or to an~~  
2 ~~other agency, except pursuant to a written request by, or~~  
3 ~~with the prior written consent of, the individual to whom~~  
4 ~~the record pertains, unless disclosure of the record would be—~~

5 ~~“(1) to those officers and employees of the agency~~  
6 ~~which maintains the record who have a need for the~~  
7 ~~record in the performance of their duties;~~

8 ~~as defined in subsection (a)(7) of this section and~~  
9 ~~“(2) for a routine use described under subsection~~  
10 ~~(c) (2) (D) of this section;~~

11 ~~“(3) to the Bureau of the Census for purposes of~~  
12 ~~planning or carrying out a census or survey or related~~  
13 ~~activity pursuant to the provisions of title 13;~~

14 ~~“(4) to a recipient who has provided the agency~~  
15 ~~with advance adequate written assurance that the record~~  
16 ~~will be used solely as a statistical research or reporting~~  
17 ~~record, and the record is to be transferred in a form that~~  
18 ~~is not individually identifiable;~~

19 ~~“(5) to the National Archives of the United States~~  
20 ~~as a record which has sufficient historical or other value~~  
21 ~~to warrant its continued preservation by the United~~  
22 ~~States Government, or for evaluation by the Adminis-~~  
23 ~~trator of General Services or his designee to determine~~  
24 ~~whether the record has such value;~~

25 ~~“(6) to any other agency or to an instrumentality of~~  
26 ~~any governmental jurisdiction within or under the con-~~

1 ~~control of the United States for a law enforcement activity~~  
2 ~~if the activity is authorized by law, and if the head~~  
3 ~~of the agency or instrumentality has made a written~~  
4 ~~request to the agency which maintains the record speci-~~  
5 ~~fying the particular portion desired and the law enforce-~~  
6 ~~ment activity for which the record is sought;~~

7 ~~“(7) [to a person who is actively engaged in saving~~  
8 ~~the life of such individual, if upon such disclosure noti-~~  
9 ~~fication is transmitted to the last known address of such~~  
10 ~~individual; ]~~

11 ~~“(8) to either House of Congress, or, to the extent~~  
12 ~~of matter within its jurisdiction, any committee or sub-~~  
13 ~~committee thereof, [ ] any joint committee of Congress~~  
14 ~~or subcommittee of any such joint committee; or~~  
15 ~~(see attached sheet)~~

16 ~~“(9) pursuant to the order of a court of competent~~  
17 ~~jurisdiction.~~

18 ~~“(e) ACCOUNTING OF CERTAIN DISCLOSURES. Each~~  
19 ~~agency, with respect to each system of records under its~~  
20 ~~control, shall—~~

21 ~~“(1) except for disclosures made under subsection~~  
22 ~~(b) (1) of this section or disclosures to the public from~~  
23 ~~records which by law or regulation are open to public~~  
24 ~~inspection or copying, keep an accurate accounting of—~~

25 ~~“(A) the date, nature, and purpose of each~~  
~~disclosure of a record to any person or to an~~

1     ~~about which the individual has filed a statement of dis-~~  
2     ~~agreement, occurring after the filing of the statement~~  
3     ~~under paragraph (3) of this subsection, clearly note any~~  
4     ~~portion of the record which is disputed and, upon re-~~  
5     ~~quest, provide copies of the statement and, if the agency~~  
6     ~~deems it appropriate, copies of a concise statement of the~~  
7     ~~reasons of the agency for not making the amendments~~  
8     ~~requested, to persons or other agencies to whom the dis-~~  
9     ~~puted record has been disclosed; and~~

10     ~~"(5) nothing in this section shall allow an indi-~~  
11     ~~vidual access to any information compiled in reasonable~~  
12     ~~anticipation of a civil action or proceeding.~~

13     ~~"(c) AGENCY REQUIREMENTS. Each agency that~~  
14     ~~maintains a system of records shall—~~

15         ~~<sup>3</sup>~~ ~~"(1) inform each individual whom it asks to supply~~  
16     ~~information, on the form which it uses to collect the in-~~  
17     ~~formation or on a separate form that can be retained~~  
18     ~~by the individual—~~

19         ~~"(A) which Federal statute or regulation, if~~  
20     ~~any, requires disclosure of the information;~~

21         ~~"(B) the principal purpose or purposes for~~  
22     ~~which the information is intended to be used;~~

23         ~~"(C) other purposes for which the information~~  
24     ~~may be used, as published pursuant to paragraph~~

10

1 ~~(2) (D) of this subsection; and~~ 1  
2 ~~“(D) the effects on him, if any, of not provid-~~  
3 ~~ing all or any part of the requested information;”~~ 9  
4 ~~“(2) subject to the provisions of paragraph (5)~~  
5 ~~of this subsection, publish in the Federal Register at least~~  
6 ~~annually a notice of the existence and character of the~~  
7 ~~system of records, which notice shall include—~~ 7  
8 ~~“(A) the name and location of the system;”~~ 2  
9 ~~“(B) the categories of individuals on whom~~  
10 ~~records are maintained in the system;”~~ 01  
11 ~~“(C) the categories of records maintained in~~  
12 ~~the system;”~~ 21  
13 ~~“(D) [each routine purpose for which the~~  
14 ~~records contained in the system are used or intended~~  
15 ~~to be used, including the categories of users of the~~  
16 ~~records for each such purpose;]~~ 01  
17 ~~“(E) the policies and practices of the agency~~  
18 ~~regarding storage, retrievability, access controls,~~  
19 ~~retention, and disposal of the records;”~~ 01  
20 ~~“(F) the title and business address of the~~  
21 ~~agency official who is responsible for the system of~~  
22 ~~records;”~~ 21  
23 ~~“(G) the agency procedures whereby an in-~~  
24 ~~dividual can be notified at his request if the system~~  
25 ~~of records contains a record pertaining to him; and~~

1       ~~“(H) the agency procedures whereby an in-~~  
2       ~~dividual can be notified at his request how he can~~  
3       ~~gain access to any record pertaining to him con-~~  
4       ~~tained in the system of records, and how he can~~  
5       ~~contest its content;~~

6       ~~“(3) maintain all records which are used by the~~  
7       ~~agency in making any determination about any indi-~~  
8       ~~vidual with such accuracy, relevance, timeliness, and~~  
9       ~~completeness as is reasonably necessary to assure fair-~~  
10      ~~ness to the individual in the determination;~~

11      7   ~~“(1) [ maintain no record concerning the political or~~  
12      ~~religious belief or activity of any individual, unless ex-~~  
13      ~~pressly authorized by statute or by the individual about~~  
14      ~~whom the record is maintained: Provided, however, That~~  
15      ~~the provisions of this paragraph shall not be deemed to~~  
16      ~~prohibit the maintenance of any record of activity which~~  
17      ~~is pertinent to and within the scope of a duly authorized~~  
18      ~~law enforcement activity; and ]~~

19      <sup>9</sup>  
20      ~~“(3) at least 30 days prior to publication of in-~~  
21      ~~formation under paragraph (2) (D) of this subsection~~  
22      ~~published in the Federal Register notice of the use or~~  
23      ~~intended use of the information in the system, and pro-~~  
24      ~~vide an opportunity for interested persons to submit~~  
25      ~~written data, views, or arguments to the agency.~~

25      ~~“(f) AGENCY RULES. In order to carry out the provi-~~  
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1 ~~agency not entitled to receive it, shall be fined not more than~~  
2 ~~\$5,000.~~

3 ~~"(2) Any person who knowingly and willfully requests~~  
4 ~~or obtains any record concerning an individual from an~~  
5 ~~agency under false pretenses shall be fined not more than~~  
6 ~~\$5,000.~~

7 ~~"(j) GENERAL EXEMPTIONS. The head of any agency~~  
8 ~~may promulgate rules, in accordance with the requirements~~  
9 ~~(including general notice) of section 552 of this title, to~~  
10 ~~exempt any system of records within the agency from any~~  
11 ~~part of this section except subsections (b) [and (c) (2) (A)~~  
12 ~~through (F) and (i) if the system of records is ]~~

13 ~~"(1) maintained by the Central Intelligence~~  
14 ~~Agency; or~~

15 ~~"(2) maintained by an agency or component there-~~  
16 ~~of which performs as its principal function any activity~~  
17 ~~pertaining to the enforcement of criminal laws, includ-~~  
18 ~~ing police efforts to prevent, control, or reduce crime~~  
19 ~~or to apprehend criminals, and the activities of prosecu-~~  
20 ~~tors, courts, correctional, probation, pardon, or parole~~  
21 ~~authorities, and which consists of (A) information com-~~  
22 ~~plied for the purpose of identifying individual criminal~~  
23 ~~offenders and alleged offenders and consisting only of~~  
24 ~~identifying data and notations of arrests, the nature and~~  
25 ~~disposition of criminal charges, sentencing, confinement,~~

1 ~~"(B) when disclosure of a social security account~~  
2 ~~number is required by Federal law.~~

3 ~~"(3) No Federal agency, or any State or local govern-~~  
4 ~~ment acting in compliance with any Federal law or federally~~  
5 ~~assisted program, shall use the social security account number~~  
6 ~~for any purpose other than for verification of the identity of~~  
7 ~~an individual unless such other purpose is specifically author-~~  
8 ~~ized by Federal law.~~

9 ~~"(j) ANNUAL REPORT. The President shall submit to~~  
10 ~~the Speaker of the House and the President of the Senate,~~  
11 ~~by June 30 of each calendar year, a consolidated report, sep-~~  
12 ~~arately listing for each Federal agency the number of records~~  
13 ~~contained in any system of records which were exempted~~  
14 ~~from the application of this section under the provisions of~~  
15 ~~subsections (j) and (k) of this section during the preceding~~  
16 ~~calendar year, and the reasons for the exemptions, and~~  
17 ~~such other information as indicates efforts to administer fully~~  
18 ~~this section."~~

(p) New (see attached sheet)

19 ~~SEC. 4. The chapter analysis of chapter 5 of title 5,~~  
20 ~~United States Code, is amended by inserting:~~

~~"552a. Records about individuals."~~

21 immediately below:

~~"552. Public information; agency rules, opinions, orders, and proceed-~~  
~~ings."~~